

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Kevin Harris,)	C/A No.: 1:19-1483-DCC-SVH
)	
Plaintiff,)	
vs.)	
)	
Captain Marvin Nix and Sheriff)	ORDER
Rick Clark,)	
)	
Defendants.)	
)	

Kevin Harris (“Plaintiff”), proceeding pro se, filed this action alleging violations of his constitutional rights by defendants Captain Marvin Nix and Sheriff Rick Clark. [ECF No. 1]. On August 2, 2019, Defendants filed a motion to dismiss. [ECF No. 17]. As Plaintiff is proceeding pro se, the court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of the motion and of the need for him to file an adequate response by September 3, 2019. [ECF No. 19]. Plaintiff was specifically advised that if he failed to respond adequately, Defendants’ motion may be granted. *Id.* On August 16, 2019, the court’s August 2, 2019 *Roseboro* order was returned as undeliverable, with a mark on the envelope indicating the recipient was no longer detained at the Pickens County Detention Center. [ECF No. 21]. Plaintiff has previously been warned:

You are ordered to always keep the Clerk of Court advised in writing (United States District Court, 901 Richland Street, Columbia, South Carolina 29201) if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of

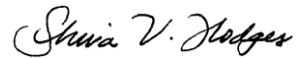
your failure to comply with this order, you fail to meet a deadline set by this court, your case may be dismissed for violating this order. Therefore, if you have a change of address before this case is ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address and providing the court with the docket number of all pending cases you have filed with this court. Your failure to do so will not be excused by the court.

[ECF No. 6]. The undersigned issued a Report and Recommendation (“Report”) recommending that Plaintiff’s case be dismissed for failure to prosecute. [ECF No. 22]. The Report also stated that the Report would be vacated if Plaintiff advised the court of his address and his intention to pursue the case within the time set for filing objections. *Id.* Plaintiff filed a change of address and the Report was vacated pursuant to its own terms. [ECF Nos. 24, 26, 27].

On September 9, 2019, the court issued Plaintiff another *Roseboro* order, advising him of the importance of Defendants’ motion and of the need for him to file an adequate response by October 10, 2019. [ECF No. 28]. Notwithstanding the specific warning and instructions set forth in the court’s *Roseboro* order, Plaintiff has failed to respond to Defendants’ motion. As such, it appears to the court that he does not oppose the motion and wishes to abandon this action. Based on the foregoing, Plaintiff is directed to advise the court whether he wishes to continue with this case and to file a response to the motion to dismiss by October 29, 2019. Plaintiff is further advised that if

he fails to respond, the undersigned will recommend that this action be dismissed for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Shiva V. Hodges".

October 15, 2019
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge